

EXHIBIT 1

INTRODUCTION

Respondent David Olivas was a successful candidate for the city council in Baldwin Park in the March 4, 2003, election. Respondent Committee to Elect David Olivas (“Committee”) was his controlled committee. Respondent Olivas served as treasurer for Respondent Committee. During Respondent Olivas’ election campaign, which was largely self-financed, Respondents received contributions of approximately \$68,000 and made expenditures of approximately the same amount.

Under the Political Reform Act (the “Act”),¹ Respondents were required to file a statement of organization, deposit contributions into a single, designated campaign bank account established for Respondent Committee, and file specific campaign statements. In this matter, Respondents failed to timely file a statement of organization; deposit Respondent Olivas’ personal funds into Respondent Committee’s single, designated campaign bank account prior to expenditure; and timely file two semi-annual statements and a pre-election statement.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

- COUNT 1:** Respondents David Olivas and Committee to Elect David Olivas failed to file a statement of organization for Respondent Committee within 10 days of Respondent Committee qualifying as a recipient committee, in violation of section 84101, subdivision (a) of the Government Code.
- COUNT 2:** Respondents David Olivas and Committee to Elect David Olivas failed to deposit Respondent Olivas’ personal funds into a single, designated campaign bank account prior to expenditure, in violation of section 85201, subdivision (d) of the Government Code.
- COUNT 3:** Respondents David Olivas and Committee to Elect David Olivas failed to timely file a semi-annual campaign statement for the reporting period January 1, 2002, through December 31, 2002, by the January 31, 2003, due date, in violation of section 84200, subdivision (a) of the Government Code.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 4: Respondents David Olivas and Committee to Elect David Olivas failed to timely file a pre-election statement for the reporting period January 19, 2003, through February 15, 2003, by the February 20, 2003, due date, in violation of sections 84200.5, subdivision (c) and 84200.8 of the Government Code.

COUNT 5: Respondents David Olivas and Committee to Elect David Olivas failed to timely file a semi-annual campaign statement for the reporting period February 16, 2003, through June 30, 2003, by the July 31, 2003, due date, in violation of section 84200, subdivision (a) of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be fully informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File a Statement of Organization

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. Under section 82016, subdivision (a), a recipient committee that is controlled directly or indirectly by a candidate is a “controlled committee.”

A recipient committee is required to file a statement of organization with the Secretary of State within 10 days of qualifying as such. (Section 84101, subd. (a).) The statement of organization must include the committee’s name, street address, and telephone number, if any. (Section 84102, subd. (a).) The statement of organization also must include the full name, street address, and telephone number, if any, of the treasurer and other principal officers of the committee. (Section 84102, subd. (c).) Section 84102, subdivision (e) further requires that the statement of organization include a statement of whether the committee is independent or controlled, and if controlled, the name of each candidate or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly.

Duty to Deposit a Candidate’s Personal Funds into a Single, Designated Campaign Bank Account Prior to Expenditure

To ensure full disclosure of campaign activity and to guard against improper use of campaign funds, the Act requires campaign funds to be segregated from nonpolitical, personal accounts and kept in a single, designated campaign bank account. (Section 85201.)

In furtherance of the goal of transparent campaign activity, any personal funds of a candidate that will be utilized to promote the candidate's election must be deposited into the single, designated campaign bank account prior to expenditure. (Section 85201, subd. (d).)

Duty to File Semi-Annual Campaign Statements

Candidates and their controlled committees are required to file two semi-annual campaign statements each year. (Section 84200, subd. (a).) The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31st. The second semi-annual campaign statement covers the reporting period July 1st to December 31st, and must be filed by January 31st of the following year. (*Ibid.*)

The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1st, if no previous statement has been filed. (Section 82046, subdivision (b).)

Duty to File Pre-Election Campaign Statements

For an election that is not held in June or November of an even-numbered year, such as the March 4, 2003, election at issue in this matter, candidates and their controlled committees are required to file two pre-election campaign statements according to a specified schedule. (Sections 84200.5, subd. (c) and 84200.8).

The first pre-election campaign statement must be filed no later than forty days before the election, disclosing contributions received and expenditures made up to forty-five days before the election. (Section 84200.8, subd. (a).) The second pre-election statement must be filed no later than twelve days before the election, disclosing contributions received and expenditures made between forty-five and seventeen days before the election. (Section 84200.8, subd. (b).)

SUMMARY OF THE FACTS

COUNT 1

Failure to Timely File a Statement of Organization

On December 27, 2002, Respondent Committee qualified as a recipient committee by virtue of having received contributions of over \$1,000 for that calendar year. Once qualified as a recipient committee, Respondents had a duty to file a statement of organization within 10 days of December 27, 2002. Respondents failed to file a statement of organization within 10 days, instead filing the statement on August 26, 2004, after contact from the Enforcement Division.

By failing to timely file a statement of organization, Respondents violated section 84101, subdivision (a).

COUNT 2

Failure to Deposit the Candidate's Personal Funds into a Single, Designated Campaign Bank Account Prior to Expenditure

During the course of running for Baldwin Park City Council, Respondent Olivas properly handled campaign contributions received from others by depositing them into Respondent Committee's campaign account and making expenditures from that account. However, when expending his personal funds for his campaign, which was largely self-financed, he wrote checks for the campaign expenditures directly from his personal bank account.

By failing to deposit Respondent Olivas' personal funds into the single, designated campaign bank account prior to expenditure, Respondents violated section 85201, subdivision (d).

COUNTS 3 & 5

Failure to Timely File a Semi-Annual Campaign Statement

Respondents had a duty to file a semi-annual campaign statement for the reporting period January 1, 2002, through December 31, 2002, by the January 31, 2003, due date. During the reporting period, Respondents received contributions of approximately \$12,875, in the form of loans, from Respondent Olivas. Respondents failed to timely file the semi-annual statement by the due date.

Respondents also had a duty to file a post-election semi-annual campaign statement for the period February 16, 2003, through June 30, 2003, by the July 31, 2003, due date. During the reporting period, Respondents received contributions of approximately \$32,609 and made expenditures of approximately \$44,496. Respondents failed to timely file the semi-annual campaign statement by the due date, instead filing it on September 28, 2004, after contact by the Enforcement Division.

By failing to timely file semi-annual campaign statements by January 31, 2003, for the reporting period January 1, 2002, through December 31, 2002, and by July 31, 2003, for the reporting period February 16, 2003, through June 30, 2003, Respondents committed two violations of section 84200, subdivision (a).

COUNT 4

Failure to Timely File a Pre-Election Campaign Statement

Respondents had a duty to file a second pre-election campaign statement for the reporting period January 19, 2003, through February 15, 2003, by the February 20, 2003, due date. During the reporting period, Respondents received contributions of approximately

\$7,846 and made expenditures of approximately \$13,694. Respondents failed to timely file the pre-election statement by the due date, instead filing it after the election, on May 27, 2003.

By failing to timely file a pre-election campaign statement by February 20, 2003, for the reporting period January 19, 2003, through February 15, 2003, Respondents violated sections 84200.5, subdivision (c) and 84200.8.

CONCLUSION

This matter consists of five counts, which carry a maximum possible administrative penalty of Five Thousand Dollars (\$5,000) per violation, for a total of Twenty-Five Thousand Dollars (\$25,000).

The facts of this case show a pattern of violations that, taken as a whole, resulted in a general lack of disclosure of Respondents' campaign activities during Respondent Olivas' campaign for election to the Baldwin Park City Council. Notwithstanding the seriousness of the violations, there does not appear to have been any intent by Respondent Olivas to deceive the public. For instance, Respondents' violation of the requirement that a candidate's personal funds must be deposited into the single, designated campaign bank account prior to expenditure can be attributed to a lack of understanding by Respondent Olivas of the requirements of the Act as they pertain to the use of personal funds in a campaign.

Regarding Count 1, the typical stipulated administrative penalty for failure to timely file a statement of organization has been toward the lower end of the applicable penalty range. This matter presents no facts with respect to this violation that warrant deviation from the typical stipulated administrative penalty. Therefore, a stipulated administrative penalty in the amount of \$2,000 is appropriate for this violation.

Regarding Count 2, the typical stipulated administrative penalty for failing to deposit and expend all campaign funds from a single, designated campaign bank account has been in the mid-to-high end of the applicable penalty range, depending on the circumstances. In this matter, Respondents' conduct of improperly making expenditures of Respondent Olivas' own funds from his personal bank account instead of first depositing them into the single, designated campaign bank account is aggravated because Respondent Olivas' campaign was largely self-financed. Therefore, a stipulated administrative penalty in the amount of \$3,500 is appropriate for this violation.

With regard to Count 3, the typical stipulated administrative penalty for failing to timely file a semi-annual campaign statement has been in the mid-to-high end of the applicable penalty range, depending on the surrounding circumstances. In this matter, the amount of campaign activity during the reporting period was relatively modest, with \$12,875 in loans from Respondent Olivas not timely disclosed. Thus, a stipulated administrative penalty of \$3,000 is appropriate for this violation.

Regarding Count 4, the typical stipulated administrative penalty for failing to timely file a pre-election campaign statement has been in the mid-to-high end of the applicable penalty range, depending on the surrounding circumstances. In this matter, Respondents failed to file the second pre-election campaign statement, due during the crucial period before the election, leaving contributions of approximately \$7,846 and expenditures of approximately \$13,694 undisclosed. Thus, a stipulated administrative penalty in the amount of \$3,500 is appropriate for this violation.

With regard to Count 5, the typical stipulated administrative penalty for failing to timely file a post-election semi-annual campaign statement has been in the low-to-mid end of the applicable penalty range. In this matter, the amount of campaign activity that occurred after the election represented a large portion of Respondents' total activity. Thus, a total stipulated administrative penalty of \$2,500 is appropriate for this violation.

Accordingly, the facts of this case justify the imposition of the agreed-upon administrative penalty of \$14,500.